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The resistible rise of the temporary employment industry in France

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Abstract

This article is an historical account of the contested growth of the temporary employment agency sector in France. It utilises a variegated capitalism conceptual framework to explain the evolution of a distinctive temporary employment agency sector and regulatory environment under French politico-institutional conditions that was contingent upon global developments. The article charts the role of large agencies in constructing a market for agency labour despite wide scale cultural, political and trade union opposition. In order to build legitimacy, agencies sought partners in the labour movement from the late 1960s onwards. By the late 1990s, the sector had grown significantly within a gradually more permissive regulatory framework despite ongoing but fragmenting opposition. The article demonstrates that the growth of agency labour was not an inevitable outcome of global pressure for labour market deregulation. It also reveals how national regulatory institutions alone are not a sufficient bulwark against global labour market pressures.

Keywords: Agency labour, France, labour market regulation, temporary employment agencies, variegated capitalism

Introduction

The widespread growth of temporary agency labour across Europe and globally since the 1980s is a significant labour market development. Despite the small proportion of workers involved, the growth of agency labour has 'transformed the structure of employment relations' (Coe et al., 2010: 1055) because, as a legal form of casual employment, it underpins the wider institutionalisation of job insecurity as a permanent, structural feature of contemporary labour markets (Helfen, 2015; Strauss and Fudge, 2014). Agency labour's expanding and deepening presence therefore is politically significant and a 'bellwether' of wider labour market change (Jordhus-Lier et al., 2015: 115). Consequently, the temporary employment agency (TEA) sector's growth internationally has generated a literature addressing the expansion of agency labour across occupations and sectors, the characteristics of agency workers (Ehrhel et al., 2009; Eurofound, 2006; Forde and Slater, 2005; Glaymann, 2006) and agency work's detrimental impact on job quality and working lives (French and Morkhe, 2006; Gorgeu and Mathieu, 2011; MacKay and Markova, 2010; Sporton, 2013). Studies highlight the negative consequences of this form of employment, particularly how a significant proportion of agency labour is low- and un-skilled and trapped in a cycle of low paid and insecure work (e.g. Eichorst et al., 2013; Eurofound, 2015). Ethnographic research and in-depth investigative

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reporting has provided insight into the negative consequences of low-skilled agency labour in France, documenting daily humiliations and low-pay (Martinez, 2003; Aubenas, 2011). A further body of research has turned attention to how the active role of TEAs in labour 'market-making' activities (Coe et al., 2009) is crucial to the sector's expansion and institutionalisation through altering employer practice and employee expectations within specific national labour markets (Coe and Ward, 2014; Jordhus-Lier et al., 2015).

The importance of TEAs as 'active institutional agents in the remaking of labour market norms and conventions' was established in early work by Peck and Theodore (2001: 474), marking an important break from earlier, predominant accounts of agency labour that presented agencies as neutral intermediaries between temporary workers and user-organisations (see Forde and Slater, 2005). Since then there have been a number of studies exploring the active role of TEAs in creating permanently available, transient workforces, and the impact on pay and conditions for workers channelled into accessing employment as agency labour (Coe et al., 2010; Peck et al., 2005; Peck and Theodore, 2007a). These studies focus on the social processes by which agencies 'simultaneously construct and inhabit' (Strauss and Fudge, 2014: 10) their markets and regulatory contexts, often confronted by hostile labour movements and reluctant governments, as was the case to varying degrees in Norway (Jordhus-Lier et al., 2015), France (Purcell et al., 2011), Germany and Belgium (Pulignano et al., 2015). The role of TEAs as 'strategic, profit-seeking actors that play an active role in the ongoing restructuring of labour markets' (Jordhus-Lier et al., 2015: 115) is well illustrated by the history of the sector in France. While there has been a revival of this history in recent years in France (Belkacem and Kornig, 2011), it is relatively absent in the predominantly Anglophone literature on the TEA sector.

The long term emergence of a large, well-organised and influential French TEA sector occurred despite extensive regulation restricting agency activity. Furthermore, large sections of French society, especially much of the labour movement, have demonstrated a persistent and tenacious attachment to the continuing de jure use of the standard (permanent) employment contract, the *Contrat du durée indéterminée* (CDI), throughout most of the post-1945 period. Successive attempts by governments of various political complexions to liberalise labour markets generally has been met with determined resistance by trade unions, often allied with powerful movements of students and young workers, as illustrated by the mobilisation in 2015-2016 against the Socialist government's new labour laws. It is within this context that the TEA sector emerged from the shadowy margins of the 1950s French labour market to form a zone of exception within French employment relations, and to become by the turn of the century a powerful institutional labour market presence wielding significant and growing politico-economic influence.

This article accounts for the long-term embedding of TEAs in the French employment landscape by tracing their transformation from barely tolerated purveyors of ad hoc labour sourcing, at a time of full employment and labour scarcity in the 1950s (Caire, 1973), to key partners in governmental efforts to address the high structural unemployment that has dogged France since the 1980s. Thus, the wider significance of the sector's contested growth in France is today's broad acceptance by the bulk of the

French national polity of the central importance of the free-market-oriented TEA sector, despite the long-standing support for an extensive framework of market, business and labour regulation.

The article begins with a discussion of the general growth of agency labour in Europe and France in order to set out the case of France in relation to other European countries. The remainder of the article is structured chronologically around four phases from the early 1950s onwards. Focusing on the 'agency of agencies' (Jordhus-Lier et al., 2015: 115), the article examines how the TEA sector has actively carved-out and grown its presence within an evolving politico-economic and institutional setting, marked by the interplay of continuity and change. To achieve this, the *variegated capitalism* conceptual framework (Peck and Theodore, 2007b) is utilised to apprehend how the TEA sector has been able to grow across diverse institutional, national settings and flourish in a country such as France.

Agency labour under variegated capitalism

While temporary agency work still represents a small proportion of employment, typically between 1% and 2.5% across much of the European Union (EU), the rate of growth since the late 1990s is substantial (Table 1). The rapid expansion of agency labour into countries with no history of it (e.g. Greece, Italy, Sweden) signals a trend towards the normalisation of agency employment within diverse contemporary labour markets. Where agency work is well established, this process has been more incremental, but one which has had far-reaching, systemic effects on labour markets and their regulatory regimes (Strauss and Fudge, 2014). A number of country studies have sought to understand the social processes that have led to the sectors' growth, initially in the more liberal market-oriented economies of the USA (Peck and Theodore, 2007a), the UK (Forde, 2008; Ward, 2005) and Australia (Coe et al., 2010), and in the more regulated economies of Norway (Jordhus-Lier et al., 2015), Belgium and Germany (Helfen, 2015; Ferreira, 2016; Pulignano et al., 2015). These latter studies begin to address a paucity of knowledge on TEAs in more regulated national contexts (Coe and Ward, 2014).

	1996	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013
Austria	0,4	0,8	1,2	1,5	1,6	1,6	1,4	1,6	1,8	1,9	1,8
Belgium	1,2	1,7	1,8	2,1	2,2	2,1	1,6	1,9	2,0	1,9	1,8
Denmark	0,2	0,3	0,6	0,7	0,7	0,7	0,7	0,8	0,5	0,5	0,6
Finland	0,4	0,4	0,7	0,7	1,1	1,3	0,8	0,9	1,2	1,2	1,1
France	1,3	2,5	2,3	2,4	2,5	2,3	1,7	2,0	2,2	2,0	2,0
Germany	0,5	0,9	1,2	1,5	1,9	1,9	1,6	2,0	2,0	2,2	2,1
Greece	na	na	na	na	0,2	0,0	0,1	0,1	0,1	0,2	0,2
Hungary	ns	ns	1,4	1,4	1,4	1,4	1,2	1,8	0,6	1,8	2,3
Ireland	0,2	1,5	1,3	1,5	1,7	1,7	0,9	1,9	2,5	1,4	1,4
Italy	nir	0,3	0,7	0,8	1	0,9	0,7	0,9	1,0	0,9	1,2
Luxembourg	1,2	2,2	2,5	2,4	1,9	1,9	1,9	1,9	na	2,4	2,5
Netherlands	2,1	2,3	2,2	2,5	2,8	2,9	2,4	2,5	2,5	2,7	2,5
Norway	0,3	0,5	0,6	1,0	1,0	1,0	0,8	0,9	0,9	1,0	1,2
Poland	ns	ns	0,2	0,4	0,4	0,5	0,5	0,7	1,0	1,0	1,2
Portugal	0,6	0,9	0,9	0,9	0,9	1,6	1,6	1,7	1,6	1,7	1,7
Slovakia	ns	ns	ns	ns	ns	0,6	0,6	0,8	0,6	0,8	0,8
Spain	0,5	0,9	0,7	0,7	0,8	0,7	0,3	0,5	0,5	0,5	0,5
Sweden	0,2	1	0,7	0,8	1,3	1,3	1	1,3	1,4	1,3	1,5
Switzerland	0,6	1,0	1,2	1,5	1,4	1,7	1,4	1,6	1,7	1,7	1,7
UK	2,6	3,7	4,2	4,3	4,7	4,1	3,7	3,0	3,6	3,8	3,9

Table 1. Agency workers as a proportion (%) of the total active population in EU countries 1996-2013. Source: Ciett Economic Reports 2012-2015

This literature demonstrates that while the rise of temporary agency work has to be understood in the context of a common, international tendency towards the loosening of labour market and employment regulation, this process of liberalisation is differentiated and contested across a diverse range of national economies (Peck and Theodore 2007b; Jessop, 2014). The expansion of agency labour is a contingent process, the outcome of which is the combined and uneven development of agency labour across local, national and regional settings within global capitalist markets (Jordhus-Lier et al., 2015; Peck and Theodore, 2007b). Consequently national and supra-national institutional arrangements that enable or constrain the activities of agencies differ considerably, especially between the more liberal, Anglophone market economies and those Western European states with stronger regulatory traditions (see Heyes et al., 2014). Despite TEAs 'acute sensitivity to regulatory conditions' (Jordhus-Lier et al., 2015: 115) they have succeeded in establishing themselves within a diverse range of labour markets via the use of locally adapted business strategies in tandem with international-level activities, including extensive political lobbying (Coe and Ward, 2014).

TEAs are affected by three principal areas of regulation: regulation that determines the form, extent and terms of agencies' activities (e.g. licensing requirements and sectoral restrictions on TEA activities); regulation that concerns the nature, terms and conditions of temporary employment in relation to statutory, contractual 'standard employment'; and the state welfare regulatory framework that shapes the socio-economic terms and conditions under which workers are prepared to undertake temporary agency labour. It is these aspects of the *multi-scalar* national and supra-national state that primarily structure the formal conditions under which agencies operate (Coe and Ward, 2014). Regulatory conditions generate a series of thresholds to what is permissible and legitimate for TEAs to pursue. However, these thresholds are commonly permeable due to being tested and even renegotiated by a

host of institutions and actors, not least the sector's own peak national and international organisations.

Acknowledging the wider institutional and multi-scalar context in this way challenges the commonplace, but much criticised, dichotomous characterisation of liberal economies and coordinated market economies associated with the *varieties-of-capitalism* (VOC) approach to comparative employment relations (Hall and Soskice, 2001; Heyes et al., 2014). Central to the VOC approach is the concept of *institutional complementarity* (Hall and Soskice, 2001) by which national models of capitalism are constitutive of distinct bundles of institutions that complement and reinforce each other. Those countries clustered around the liberal market economy model tend to rely principally on market mechanisms to resolve problems of economic management, while in coordinated market economies, non-market regulatory measures tend to be favoured. While VOC provides an important counterbalance to over-deterministic convergence theories of globalisation, it does not offer a convincing account of the dynamic interplay between domestic institutions and international politico-economic market and institutional pressures for change. Instead it overemphasises the capacity of the former to resist 'external' neoliberal globalising forces (Heyes et al., 2014; Peck and Theodore, 2007b), thereby underestimating how the interrelationship of international, national and local factors can affect incremental change in national institutions.

In contrast to the VOC model, Peck and Theodore's (2007b) *variegated capitalism* approach offers a more dynamic account of the complex ways domestic and international politico-economic phenomena interact to shape local labour markets. Variegated capitalism challenges VOC's neo-institutional assumptions of path-dependency by offering an approach that commences from the uneven but combined development of national labour markets, underpinned by interrelatedness and contingent change. By focusing on meso-level developments that may circumvent national institutional arrangements, variegated capitalism emphasises the dynamic intersection between global politico-economic forces and existing local-regional institutions to explain how 'owners, managers and workers react to, conform with, deviate from or recreate institutions' (Vidal and Hauptmeier, 2014: 21). Specifically, employing a multi-scalar understanding to institutional change rather than VOC's predominantly mono-scalar typology (Zhang and Peck, 2016: 57) provides an analytic framework that can explain how the TEA sector can emerge and succeed across a diverse range of national economies.

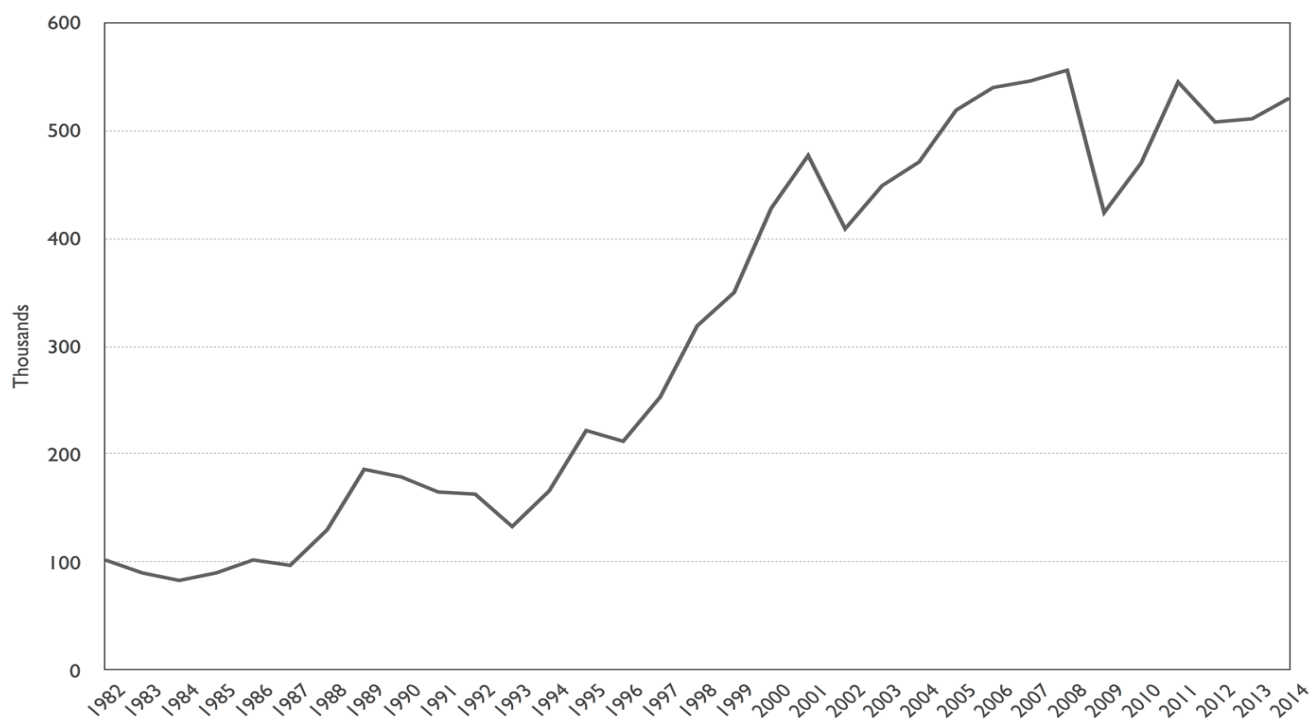


Figure 1. Number of temporary agency workers in France 1982-2014. Source: INSEE (2016)

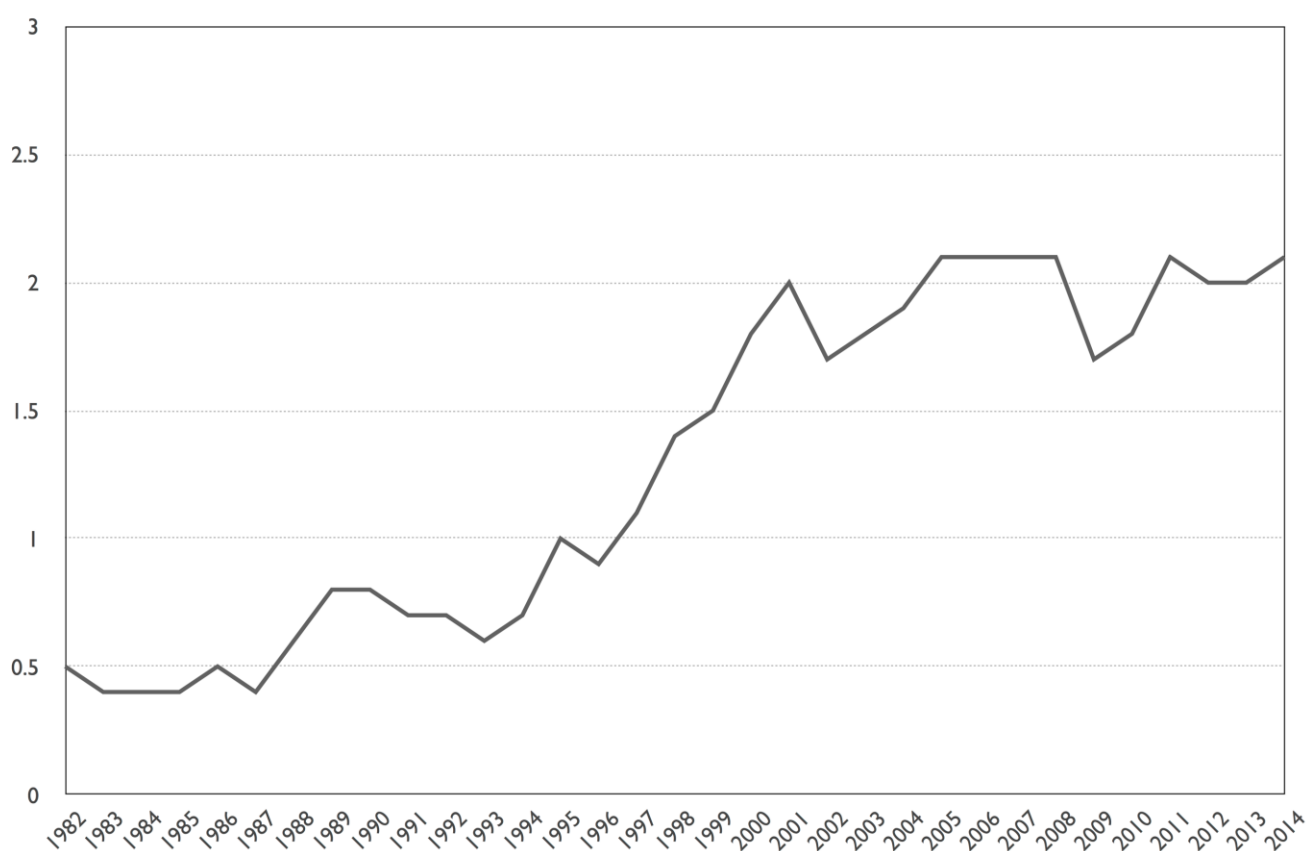


Figure 2. Agency workers in France as a proportion (%) of the total active population. Source: INSEE (2016)

The development and growth of agency labour in a country such as France illustrates a process of variegated outcomes within a tightly regulated economy, and a legal and cultural context that traditionally views agency labour as an unacceptable deviation from the standard employment relationship (Belkacem, 2013). Across the French economy, agency labour is still a marginal form of employment constituting only 2% of the active workforce (Figure 2). However, historically France has had one of the higher rates of agency labour in Europe despite being considered as closer to the VOC's cluster of co-ordinated market economy, given its tightly regulated state-led market economy (Milner, 2015:12). By way of contrast, in Germany it was only after the implementation of the 2003 liberalising *Hartz* reforms that agency labour as a proportion of the workforce began to catch up with France (Belkacem et al., 2014: 24). France's strict employment protection for permanent employees is said to have encouraged the use of agency labour (Belkacem et al., 2014), though the same did not occur in most other European countries with extensive employment protection. Moreover, agency labour in France has long been subject to strict regulation to limit its use, principally by imposing a requirement for equal treatment between agency and permanent workers from the first day of a temporary contract. Despite these institutional barriers, there has been a gradual growth in agency labour in France both in absolute terms (Figure 1), and, to a lesser extent, as a proportion of the total active population (Figure 2).

Agency work in France has long been promoted by its proponents as a stepping-stone into permanent employment and even a positive, life-style choice for some (Jourdain, 2002). However, for many it has become either an obligatory or the sole route into employment of any form, and a lengthening and uncertain pathway into permanent employment. Those who choose agency labour over other forms of employment are a minority (Lacroux and Larbi, 2009; Barnier, 2014). Agency labour in France is increasingly present among older-cohort workers with the proportion of agency workers under the age of 30 declining from 59% in 1995 to 44% in 2014. Over the same period the proportion of agency workers in the 35-49 age bracket increased from 23% to 30% (Table 2).

	1995	2000	2005	2010	2014
< 20 years	3,0	6,0	4,3	3,4	2,9
20 to 24 years	32,2	30,5	28,2	24,6	21,4
25 to 29 years	23,9	21,2	20,5	20,2	19,7
30 to 34 years	14,2	13,8	14,3	14,1	14,9
35 to 49 years	22,8	23,4	26,1	29,1	30,4
> 50 years	3,9	5,2	6,7	8,7	10,7

Table 2. Distribution of agency workers (%) in France by age group 1995-2014 (selected years). Source: DARES 2015

Agency workers experience poor health and safety conditions due to a lack of training and experience (Tone et al., 2016). Consequently, the sector has the second highest rate of workplace accidents and fatalities (DARES, 2016). In the French construction sector agency workers are significantly more likely than their permanent co-workers to report osteoarticular and auditory problems (Tone et al., 2016). In some manufacturing sectors in France, such as the metal industry, agency workers are twice as likely as permanent employees to suffer a workplace accident (Lacroux and Larbi, 2009). One explanation for such a large difference – and poorer working conditions – is that agency labour is concentrated disproportionately in physically arduous and more hazardous jobs (DARES, 2016).

While a high proportion of agency workers are in occupations and industries more susceptible to unsafe working conditions, exposure to this kind of risk is also a consequence of structural features of the agency contract and their manifestation in the use made of agency labour by user-organisations. Thus, agency labour's deployment tends to generate three interrelated forms of vulnerability for the agency worker: a physical fragility due to the short-term nature of the work so that agency workers lack experience in specific tasks; a statutory fragility that leaves agency workers exposed to the most arduous and difficult tasks; and a psychological fragility rooted in the inability to envisage a stable employment future (Belkacem and Montcharmont, 2012). This assessment of the human cost of agency labour is also supported by recent studies of agency labour in French auto-manufacturing (Gorgeu and Matthieu, 2011; Purcell et al., 2011; Purcell, 2014). Furthermore, it is in those sectors, such as auto-manufacturing and construction, where agency labour is integral, large scale and deployed strategically for its flexibility that, as a pathway into other employment it is now obligatory, prolonged and uncertain.

Although in the immediate post-1945 decades French agency labour was predominantly made up of female clerical workers (Vigneau, 2008; Belkacem et al., 2011), the subsequent development of the sector significantly modified the gender profile of temporary agency workers. Male workers account for nearly three quarters of agency workers, with the proportion of female workers increasing only marginally over the last two decades from 25% in 1995 to 27% in 2014¹. In terms of occupational status, while there has been a decline in the proportion of manual workers (*ouvriers*) and an increase in the proportion of white collar occupations (*employés*), manual workers still represent a large proportion of agency workers, constituting 77% in 2014 (down from 84% in 2000) compared with 23% for white-collar occupations (up from 16% in 2014) (Figure 3).

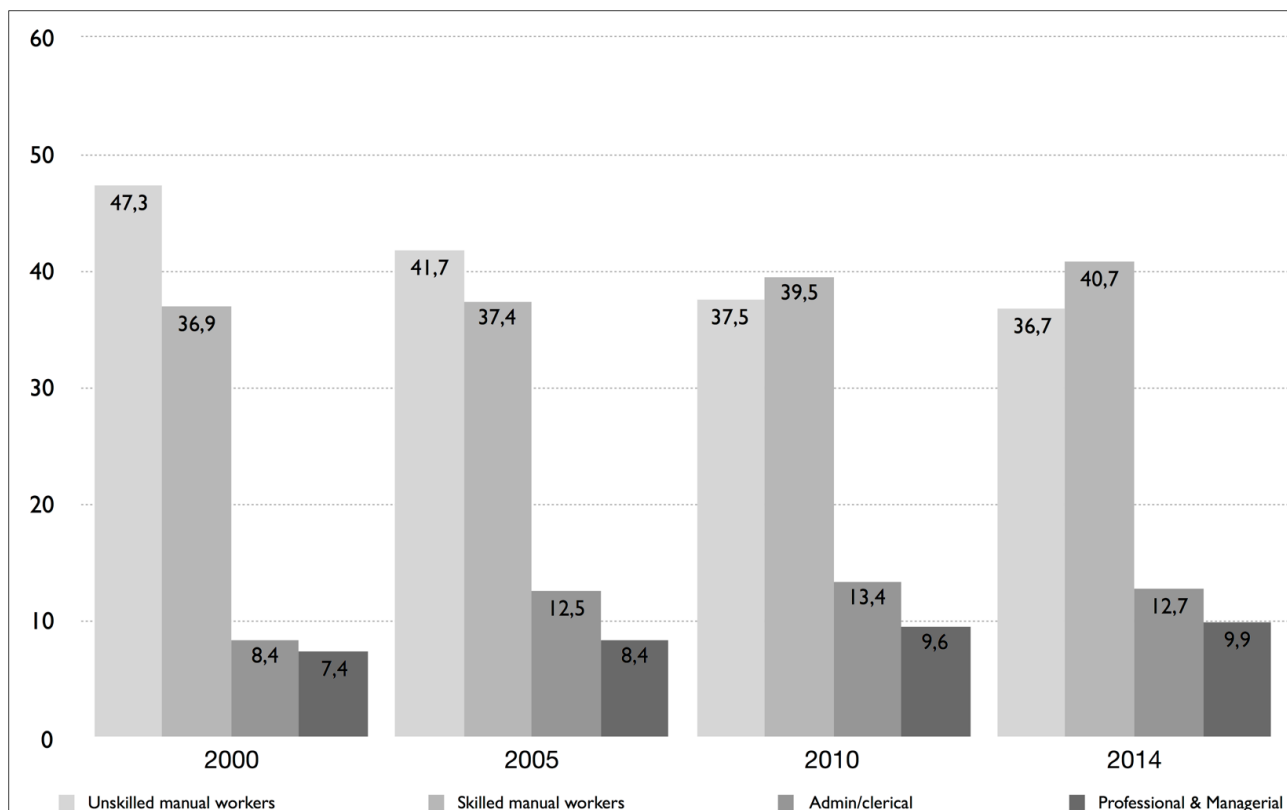


Figure 3. Distribution of agency workers (%) in France by occupation status 2000-2014.
Source: DARES (2015)

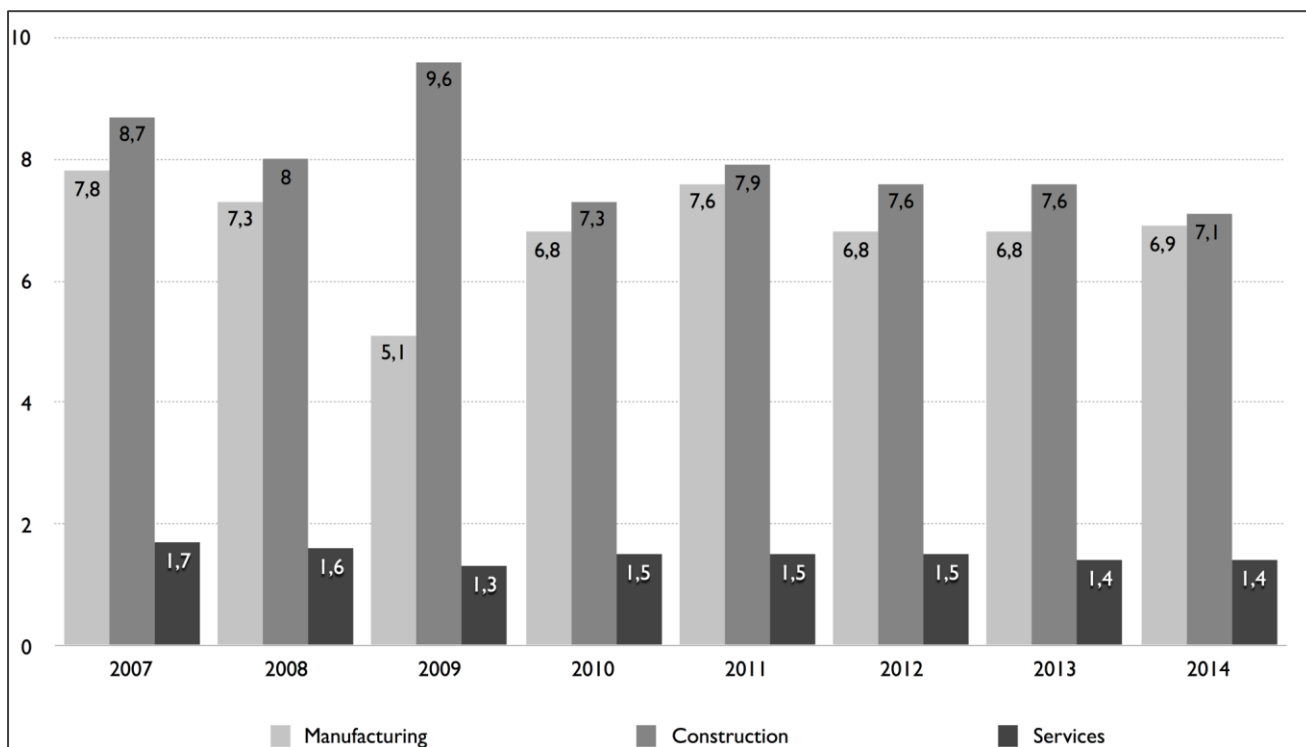


Figure 4. Agency workers in France as a proportion (%) of total employment by sector 2007-2014. Source: DARES 2015

Figure 4 shows the proportion of agency labour in manufacturing and construction, reaching a high of 7.5% and 8.8% of total employment respectively in 2007 before bottoming-out at 5% in 2009 as France entered into recession. Within manufacturing, it is the auto sector that has made the most extensive use of agency labour. From 2000 up until the 2008 financial crash, agency labour in the auto sector frequently accounted for over 10% of the workforce (Gorgeu and Mathieu, 2011: 79). These high rates at the sectoral level give substance to the variegated capitalism thesis by illustrating the strategic, tailored responses of local, meso-level actors to the pressures of global capitalism. In the case of the auto sector, TEAs provided employers with the means to deviate from institutional norms (Purcell et al, 2011), demonstrating their role as 'rule makers' as well as 'rule takers' (Zhang and Peck, 2016: 57) as they engage in localised practices of mutual interdependence with other actors, the outcome of which can be incremental systemic change. The following sections illustrate this process by charting how key actors in the French TEA sector have engaged in practices and alliances that have facilitated their liberalising agenda since their emergence in the post-war years.

The Wild West years

Agency work in France emerged in its modern form in the 1950s, a period of reconstruction and economic boom following the destruction of war and occupation. The immediate post-war years (1945-1947) were a period of cooperation between state, business and labour, resulting in important gains in the area of employment rights (Ross, 1982). The progressive modification of the statutory *Code du travail* (Labour Code) and the introduction of employment-related welfare insurance protections alongside the *regimes speciaux* for specific groups of workers (e.g. rail workers and miners) significantly modified employment relations for an increasing number of workers. Stable employment was still the preserve of a small minority of workers at this time, and for some workers the freedom of what was increasingly referred to as 'atypical' work was viewed positively, not only for women seeking to combine work with family life, but also for those who did want to be tied to one employer (Fourcade, 1992; Sauze, 2005). However, the CDI was becoming the benchmark for measuring employment quality and progressively became the employment norm (Fourcade, 1992; IRES, 2009).

The emergence of temporary agency labour in the 1950s at the margins of the labour market was at odds with this trend towards stable employment, as more workers in newly nationalised companies and larger private sector firms came under the protective umbrella of the CDI (Fourcade, 1992; Belkacem et al., 2011). Moreover, TEAs were commonly viewed as socially regressive businesses engaged in disreputable activities; a sentiment encapsulated in the title of Guy Caire's (1973) influential study *Les nouveaux marchands d'hommes? Étude du travail intérimaire* (The new traders in men? Studies in agency work). Not only was there trade union hostility to agency labour but post-war policy-makers were ambivalent towards TEAs, vacillating between an outright ban and strong regulation to inhibit their activities (Belkacem, 2013). Despite this, the limited data that exist suggest that the supply of temporary workers grew rapidly from the late 1950s onwards, albeit from a miniscule base, primarily due to labour shortages under conditions of full-employment. In the five-year period between 1957 and 1962, there was an estimated increase in the numbers of agency

workers from 6,000 to over 33,000 (Caire, 1973: 45; Kornig, 2003: 40). By 1964, this had nearly doubled to 66,393 (Caire, 1973: 45). A number of accounts highlight the prevalence of female dominated administrative and secretarial work at this time, (Vigneau, 2008:86; Belkacem et al., 2011:19), however there is also evidence that during the 1960s French TEAs were branching out into manufacturing and construction (Caire, 1973; Pialoux, 1979).

TEAs grew rapidly in number during this period. Caire (1973) puts the number of agencies in 1956 at seven; by 1962 there were 170. The sector continued to grow throughout the 1960s with large numbers of small companies existing alongside a smaller number of nationally-embedded agencies. The lack of regulation meant that there was little risk involved in setting up an employment agency. Start-up costs were minimal – all that was needed was ‘a room and a telephone’ (Belkacem et al., 2011: 24) – while the demand for employment services in a tight labour market guaranteed a good return (Grunelius, 2003). The lack of TEA regulation combined with a favourable labour market provided boom conditions for what were commonly viewed as opportunistic and avaricious agents, driven almost exclusively by ‘financial gain’ (Le Tourneur, 1969: 13-14, cited in Belkacem, 2000: 142).

The negative image of the sector was exacerbated by the activities of some of the smaller agencies who engaged in strike-breaking and were renowned for their bad treatment of agency workers (Kornig, 2003). This propelled the larger, more strategically-inclined agencies to distance themselves from the smaller rogue operators in order to present themselves as reputable businesses with a legitimate role in the labour market (Pialoux, 1979). Fearful that the activities of the sector would be prohibited, the big agencies lobbied the government to provide a delimited regulatory framework within which the sector could operate. As one large company CEO explained in 1971:

The functioning and use of temporary work has been seriously hindered by the absence of an adequate legal status. This situation....has allowed firms of all kinds to open agencies in an anarchic way during recent years and to run them in a questionable manner. It is well known that the growth of the profession attracts those who seek to make a quick profit rather than engage in a natural vocation. (*Journal Officiel, Assemblée Nationale*, 1971: 6723, cited in Kornig, 2003: 43)

Interventions of this kind were designed to counter the industry’s critics by appealing to the more social-oriented values of the Fifth Republic by condemning ruthlessly pecuniary, smaller operators. The prevalence of disreputable agencies was at odds with the evolving social mores of post-war France and risked hindering the sector’s development, particularly as it expanded into those sectors with a significant trade union presence. In manufacturing for example, the influential Communist-leaning *Confédération Générale du Travail* (CGT) was strong, while the then fiercely militant *Confédération Française Démocratique du Travail* (CFDT) had a strong presence in the retail sector (see Ross, 1982).

Establishing and building TEAs in the 1950s and 1960s, when organised labour was advancing its influence and employee rights, demanded that companies pooled their resources to challenge the sector's negative image by engaging actively in public debate on employment policy. An early manifestation of this was the establishment of ad hoc sectoral study groups in the 1960s with the aim of presenting empirical evidence to promote the positive role of agency work for both workers and businesses (Caire, 1973). The sector also developed mechanisms of self-regulation, underpinned by voluntary codes of conduct, prefiguring contemporary concerns with corporate social responsibility. By 1967, these early forms of agency association had been formalised with the establishment of a national federation, *Société Nationale des Entreprises du Travail Temporaire* (SNETT), which brought together the larger agencies, such as Manpower and BIS. One of SNETT's core founding aims was to 'clean up' the profession by establishing a professional charter and sector norms. Significantly, SNETT set itself the task of establishing contacts with public policy bodies and decision-makers (Caire, 1973: 42).

An international organisation, the *Confédération Internationale des Entreprises du Travail Temporaire* (CIETT) was also established in Paris in 1967. The choice to base CIETT in France was not an obvious one given the UK TEA market was the cradle and the largest market for agency labour in Europe (Belkacem and Kornig, 2011). On the other hand, CIETT was a powerful advocate for the French TEA sector's quest for legal recognition and greater legitimacy. By contrast, the British sector did not face a serious threat to its activities, and was focusing instead on a campaign to gain access to the state monopoly on employment placements (Forde, 2008). The contrast between the neighbouring TEA markets of France and the UK illustrate how their combined yet uneven development generates a variegated and polymorphic European-level TEA sector in which national-based sectors pursue divergent priorities and market opportunities dependent on the evolving regulatory, economic and socio-political context in which they operate. The resolution of divergent interests at the international level is not always obvious. CIETT has sought to promote the legitimacy of agency labour in unfavourable national contexts, and therefore has readily accepted regulation of the sector as embedding its presence. By contrast, the more benign market and political conditions for the UK TEA sector has encouraged it to oppose regulation as restrictive and anti-competitive, most recently in relation to the EU Directive on Temporary Agency Work (Kountouros, 2008).

Tête à tête: Manpower and the CGT

It is impossible to tell the story of agency labour in France without reference to the role played by Manpower France² in propelling forward the sector's strategic aim of gaining respectability in a country that eschewed agencies as *marchands d'hommes*. The evolution of agency labour and its regulatory environment owes much to the business strategy of Manpower. The autobiography of Michaël Grunelius, founder of Manpower France, provides some insight into the barriers TEAs faced in overcoming social stigma and hostility (Grunelius, 2003). Central to this is the company's success in convincing the CGT to enter into a joint agreement that allowed Manpower to present itself as the acceptable face of agency labour, a move which laid the basis for the legalisation of agency labour in 1972. Grunelius was inspired by the USA-based parent, Manpower, which had successfully expanded

beyond the traditional feminised administrative and secretarial employment markets for temporary agency work in the American labour market during the 1940s and 1950s. In this regard, the post-1945 expansion of Taylorist mass-production was fortuitous, since American manufacturing employment was increasingly dominated by fragmented, low-skill work, which was ideally suited to the use of agency workers to meet short-term labour gaps (Peck and Theodore, 2002). Manpower was keen to achieve the same in France, viewing the auto industry as a potentially lucrative market:

... in manufacturing, when demand was exceptionally high, overtime was no longer sufficient and it was necessary to turn to external resources. In addition, certain sectors, like the auto-industry, were becoming heavily automated and each unforeseen absence needed to be immediately filled to avoid slowing down the production line. So the potential market for temporary agency staff seemed to be, statistically, at least three times higher than that of office staff (Grunelius, 2003: 48).

However, accessing this market was problematic given these industrial sectors were 'bastions of the working class'; labour unions were likely to 'make life hard' were Manpower to offer their services to industrial employers (Grunelius, 2003: 48). Despite these reservations, *Manpower Industrie* was launched in 1960. Union activists did indeed 'make life hard'. The company became a target of militant action which escalated during the 1968 General Strike. Office façades were defaced with graffiti and windows were smashed. One of the posters during the strike depicted Manpower, alongside the advertising agency *Publicis*, as a reviled symbol of capitalism and at the height of the strike *Manpower Industrie's* offices were occupied (Grunelius, 2003: 75-78).

In the aftermath of 1968 the trade union confederations were even more politically powerful and confident. Consequently, TEAs were fearful that governmental-level negotiations over new labour laws would result in the abolition of agencies and agency labour. Manpower's response was to approach union confederations with the aim of reaching a voluntary agreement on the use and protection of agency labour. After a series of rejections it was the CGT, the largest confederation that responded positively. The ground breaking negotiations with the CGT that followed resulted in an agreement in 1969 that ultimately secured the future of the sector by becoming the model for the 1972 labour law that formally legalised and regulated agency labour and agencies.

The CGT, opposed to agency work in principle, was confronted with the paradox of how to protect agency workers whilst simultaneously opposing a casualised form of work which undermines secure employment conditions. Furthermore, the CGT negotiators were in a weak position, having virtually no agency worker members. However, they recognised that there was a real chance to improve the situation of agency workers since Manpower wanted the agreement not only as a bargaining chip with the government but also as a way of improving the 'brand' image of the company (Tartakowsky, 1985). By establishing minimum standards, the company hoped to distance itself further from other agencies and present itself as a 'good' employer (Caire, 1973). The agreement with the CGT effectively

averted the outlawing of the sector and guaranteed its long-term survival. Significantly, it included the de facto acceptance of the positive function of agency work in the labour market by acknowledging the industry's contention that agencies were neutral labour market intermediaries matching employers with those who voluntarily choose agency labour above permanent employment. This was a contentious point for French organised labour and the CGT, as the largest and most powerful confederation, faced heavy criticism, including from its own members (Caire, 1973). While union confederations in France co-existed in a conflictual and competitive relationship (Ross, 1982), all three main unions the CGT, *Force Ouvrière* (FO) and the CFDT opposed agency labour during this period.

Legalisation and restrictive regulation

The legalisation of agency work in 1972 redefined the employment relationship for a small but growing segment of the labour force, creating a formal zone of liberalised, flexible employment alongside the standard employment contract. The strict codification within the *Code du travail* of the employment relationship necessitated the resolution of various complex contradictions arising out of temporary agency employment before the law could be passed. In addition, the business activities of TEAs needed to be reconciled with French legislation on the supply of workers to a third party (Vigneau, 2008). These issues gave rise to extensive debates across the media between opponents and proponents of agency work. The temporary employment sector was a major contributor to the debate, engaging in a well-resourced campaign to convince the National Assembly legislature and public opinion of its economic and social legitimacy (Caire, 1973; Grunelius, 2003).

The National Assembly's report on legalising temporary agency work drew special attention to the problem of whether it was the agency or the user-organisation that was the actual employer, since both had responsibilities that could be attributed to an employer (Caire, 1973). Under the *Code du travail* the employment contract is defined as a convention by which a person engages to put their employment/activity at the disposition of another person, under the subordination of this person, in return for remuneration (Pélissier et al., 2006). In practice this means that the employer has the legal authority to 'give instructions to the worker, to control their execution [of the work] and to sanction non-performance' (Havard et al., 2009: 260). Since subordination refers to the execution of work and occurs at the point of production, there was a strong case for the user-organisation to be designated as the employer (Caire, 1973). For TEAs this was a crucial point of deliberation since securing the status of employer would underpin their de jure legalisation and longer-term social legitimacy. The 1972 law duly resolved this by giving TEAs the status of employer. A new type of contract, the *contrat de mission* (assignment contract) was established existing alongside a commercial contract between the agency and the user-organisation. The triadic relationship was thereby articulated within two interdependent and simultaneous contracts. In adopting this solution, the National Assembly was drawing heavily upon work that had been carried out by Manpower to reconcile agency labour with French labour law (Caire, 1973; Grunelius, 2003).

However, TEAs were also subject to limits on the scope of their activities. Agencies' activities were limited exclusively to the business of supplying temporary workers to client organisations, but only under the following three conditions:

1. To temporarily replace an absent employee;
2. To allow organisations to function during exceptional peaks in activity;
3. To undertake duties that are by nature temporary.

(Article 2 Law no. 72-1, *Journal Officiel*, 5th January 1972)

The principle that agency work should be of limited duration was established by two key elements of the legislation. First, the stipulation that agency work 'can have neither as an aim nor as its effect to permanently fill a job related to the normal and permanent activity of a company' (*Journal Officiel*, 1972: 141-144). Second, the requirement to justify the use of agency work with reference to clearly defined organisational objectives ('tasks'). User-organisations were, in theory, unable to assign successive agency contracts to the same post. The legislation also set out three specific circumstances under which the use of agency contracts was prohibited: the replacement of striking workers; undertaking work and occupations deemed dangerous; and during the first six months following redundancies of permanent employees. Strict prohibition in these areas is an indication of the significant political influence of organised labour in the immediate post-1968 period and continuing widespread suspicion of TEA practices and motives. Overall, the legislation represented a compromise that the larger TEAs could accept. They were now freed from the uncertainty, underpinned by a fear of prohibition that had beset the sector. Some of the smaller agencies were less resilient to the restrictions placed on their activities. This and other regulatory compromises that followed began a long-term process of high market concentration in the French TEA sector; by 2004, four companies accounted for 70% of market share - and two alone, Adecco and Manpower, accounted for 46% (Michon and Belkacem, 2011: 44).

Although the TEA sector had gained formal legitimacy, agency labour was still heavily contested, not least by the trade union movement. Nonetheless agency labour grew considerably in the 1970s (Caire, 1973). By the beginning of the 1980s, when Mitterrand's socialist government came to power, there were approximately 100,000 agency workers (see Figure 1). During the election campaign, the Socialist Party (PS) promised to ban TEAs and provide the under-resourced *Agence Nationale pour l'Emploi* (ANPE) with sufficient funds to effectively implement the formal state monopoly on employment services, including temporary placements (Belkacem, 2013). As in 1968, hostility to agency work was highly visible during the election campaign; in anticipation of an electoral victory by the left, activists had fly-posted agencies with posters proclaiming 'outlawed!' (Grunelius, 2003).

Again it was Manpower that initiated the sector's counter-offensive by pleading the TEA case at a meeting in 1981 with Jean Auroux, the new Socialist minister of labour. The resulting compromise amended the 1972 law by reducing further the range of circumstances under which employers could

use agency work, and by strengthening the rights of agency workers. The government also pledged to reinforce state monitoring of agency work in view of its 'harmful role' if used as a substitute for permanent work (Grunelius, 2003: 110), an implicit acknowledgement that agency labour was being used outside of the parameters of the 1972 law. The combined pressures of tighter regulation and worsening economic conditions led to a decline in the number of agency workers (Figure 1) alongside a dramatic drop in the number of registered companies supplying agency workers, falling from 1,518 in 1980 to 800 in 1984, as smaller agencies struggled to survive under the tighter regulatory environment (Roux, 2011: 336). For the larger agencies things were less bleak, as they were able to increase their market share as the sector became more concentrated. Moreover, by establishing a statutory framework for national negotiations between unions and TEAs, the 1982 legislation facilitated the deepening institutionalisation of agency labour.

Contested regulation and legitimacy

By 1983, deteriorating economic circumstances brought Mitterrand's radical reform programme to an abrupt end. Faced with rising unemployment and high inflation, the government switched direction to pursue a liberal deregulatory approach (Daley, 1993) aimed at enhancing French competitiveness in the global market. A key plank of this was labour market flexibility to promote job creation. A new consensus between government, employers, and the PS-supporting CFDT union, was emerging; in order to restore competitiveness and profitability the cost of labour needed to be reduced (Sarafati and Kobrin, 1987). For agency work legislation, this meant the relaxation of the maximum duration of agency labour contracts – providing manufacturers could demonstrate they needed long term contracts to cope with production for export. By 1986 Chirac's new coalition government of the right felt able to pursue labour market flexibility tenaciously (Daley, 1993). The government loosened restrictions on the use of agency labour and increased the maximum duration of contracts to 18 months. This was underpinned by an emerging policy discourse that spoke positively of agency labour's role as a means of labour market entry for young unemployed workers and school-leavers. The changing political climate enabled larger agencies to consolidate and extend their relationship with client companies. As numerical labour market flexibility became an instrument of adjustment (buffer) against macro-economic shocks (Eamets and Masso, 2005) agencies increasingly became mediators in labour allocation in those sectors acutely susceptible to competitive global markets.

By the end of the 1980s the now highly concentrated TEA sector was in a position to offer a large-scale solution to manufacturing's flexible staffing requirements arising from the common adoption of just-in-time production techniques, and to promote the idea of agency work as a strategic element of human resource management (Erhel et al., 2009). The changing economic environment and the high levels of unemployment undermined the post-war interventionist model of labour relations in France, laying the basis for a piecemeal, locally adapted form of labour market liberalisation. Unable to fundamentally destabilise the standard employment relationship by legislative means, the pressures of international neoliberal capitalism were channelled towards differentiated and variegated flexible labour market practices facilitated by well organised TEA sector.

This process is well illustrated by the permanent, strategic use of agency labour in manufacturing. Between 1992 and 2002 the proportion of agency workers in manufacturing rose from 2% to 6.8%; in the same period permanent jobs fell by 7.5% (DARES, 2005). This period also saw a shift in the type of atypical employment in manufacturing away from the fixed term *Contract de durée déterminée* (CDD). In 1992 temporary contracts were more likely to be CDD contracts, however by 2002 agency labour had overtaken CDDs across manufacturing industries. In auto-manufacturing agency contracts represented 2.2 % of employment contracts in 1992. By 2002 this had risen to 11.8% (DARES, 2005: 3). High penetration rates in the sector were facilitated by close commercial relationships between manufacturers and TEAs, where the latter helped auto-companies adapt their labour sourcing more closely to the requirements of just-in-time production via the establishment of dedicated offices in close proximity to factories (Beaud and Pialoux, 1999). Agency labour also provided manufacturers with the opportunity to evaluate individual agency workers before taking some of them on as permanent employees, a widespread practice that was prohibited by law (Gorgeu and Mathieu, 2011). Long-term, large-scale agreements with TEAs also enabled auto-companies to make economies of scale by reducing agency fees and allowed manufacturers to keep a set proportion of production line workers on fixed lower grades. These new practices highlight the strategic 'rule-making' capacity of TEAs (and their clients) as they established new governance structures enabling them to deviate from national regulatory regimes (Zhang and Peck, 2016: 57).

Consolidation and institutionalisation

From the late 1990s onwards the increase in agency labour in auto-manufacturing became an issue of persistent, growing union and public concern. There was a steady increase in critical press coverage of the plight of young auto workers on precarious agency contracts, as the number of secure, permanent jobs declined (Purcell, 2014). During the late 1990s and early 2000s, agency workers accounted for up to 30% of the workforce at some plants (Gorgeu and Matthieu, 2011: 81). It was during this period of rising public concern that the reconfigured employers' organisation, SETT (*Syndicats des Entreprises de Travail Temporaire*) held its first *Forum du travail temporaire*, bringing together TEA leaders, government ministers, academics and representatives of CIETT to shape debates on employment policy and influence decision-makers. At this first forum, the president of CIETT reported how struck he was that many young people expressed no desire to follow their parents' experience of entering into permanent employment early on in their careers (SETT, 1999: 28). This anecdotal remark was aimed at a labour movement portrayed as clinging on to anachronistic employment norms that no longer corresponded to the aspirations of new generations of workers.

A number of themes emerged in the forums, notably labour market integration of young workers, the reduction of long-term unemployment, and the cultivation of 'professional pathways' through training and development. The reports of the forums provide an indication of the sector's changing relations with government. The 1999 forum was addressed by a representative of the Socialist government and involved a robust exchange with one speaker claiming that too much state welfare reduced the pool of labour available for agencies (SETT, 1999: 41). The 2005 Forum took place in a very different atmosphere. In January 2005, the Law on Social Cohesion (*Loi Borloo*) had ended the state monopoly

of permanent job placements and extended the range of conditions under which agency work was permitted. In particular the employment needs of individual agency workers were taken into account for the first time. These changes effectively institutionalised the role of TEAs in public employment policy by making TEAs official partners of the state employment service, something that had been gradually developing, unofficially, for some time (Belkacem and Kornig, 2011). The significance of the changes was acknowledged by the then Vice-President of SETT:

Twenty years ago we were considered as creators of precariousness. Today we are actors in the employment market. This transformation of our image opens up many possibilities for change. Similarly, from the point of view of job-seekers, we are going to be able to take charge of a much larger population, made up of all those seeking work. Our image is transformed and valorised by the social cohesion plan. (SETT, 2005: 14)

SETT could now congratulate itself that the sector was one of the principle vectors of training for young people (SETT, 2005: 8). The 2011 forum, under the theme of *The Employment Agency: At the Heart of Job Creation*, pursued the idea of TEAs as core players in the labour market, at the 'epicentre' of labour market dynamics due to their expertise and local knowledge (PRISME³, 2011: 4).

The challenges posed by promoting numerical flexibility in a country strongly attached to the standard employment relationship constituted a major part of the discussions in the SETT forums, at times becoming a quasi-sociological debate on the nature of work and employment within French society, given the obstacles to pursuing the liberalisation of employment in the French context. While this context conditioned and constrained the evolution of the sector, TEAs were, nonetheless, able to effect gradual institutional change. SETT had encouraged sympathetic academic participation in the forums to help build an independent case for the legitimate role of agencies in the contemporary labour market, strengthening the sector's objective of 'influencing legislation and attitudes' (PRISME, 2007: 9). This long-term success enabled the 2007 forum to focus on removing the barriers to agency labour in the public sector – which was partially achieved in 2009.

By the end of the opening decade of the century, political, cultural and industrial opposition to the existence of temporary agency labour appeared to pose little threat to the sector's continued development. Nevertheless the 2013 national TEA *accord de branche* that established a new type of permanent contract for temporary agency employees (*CDI interim*) took over five months of fraught negotiations with the five union confederations, concluding with the CGT and FO refusing to sign the final agreement (Belkacem et al., 2014). Resistance to the further development of a sector seen to trade in precarious employment has not therefore been totally quelled.

Conclusion: the long road to institutional *précarité*

The development of temporary agency labour in France has confirmed the fears of trade unions that its statutory regulation would facilitate its institutionalisation and growth. Furthermore, TEAs have so successfully overcome their pariah status that they are now commonly considered to be *partenaires*

priviliés (favoured partners) of the state in the development of labour market and employment policy (Belkacem, 2013). The sector has survived restrictive legislation as well as the legislative uncertainty resulting from governmental *alternance* between right and left. This process has been primarily reliant on the activities of a small number of large agencies that dominate the sector, a consequence of the acute concentrating effect on the industry of restrictive legislation.

A lack of political will to enforce regulations is also a factor in the sector's long-term success. Successive governments tolerated the widespread use of agency labour beyond legal boundaries (Purcell et al., 2011). This was principally due to the tacit acceptance by the PS and some trade unions of the need for greater labour market flexibility to get young workers into employment, even if under the guise of pursuing labour market *flexicurité* (Milner, 2012). This growing consensus from the mid-1980s onwards created an environment in which the lobbying and public relations practices of the TEA sector gained an increasingly sympathetic ear at governmental level. Moreover, demand from employers for agency labour was astutely cultivated by TEAs, as they transformed their services from the ad hoc supply of stop-gap workers to a strategic labour-sourcing function for client companies and entire industries such as auto-manufacturing.

This history of the sector's growth and institutionalisation is a compelling illustration of Peck and Theodore's (2007b) variegated capitalism and the analytical significance of multi-scalarity. The '*construction sociale*' (Belkacem and Kornig, 2011: 1) of the French TEA market has produced a distinctive national sector that has been a vector for labour market flexibility, and thereby an incremental neo-liberalisation of French employment relations. The economic context certainly encouraged this. The inability to make significant inroads in combatting unemployment since the 1980s, coupled with the constraints placed on monetary policy as a result of fiscal preparation for the single European currency, elevated the importance of labour market flexibility as a solution to high unemployment among young workers and as a buffer against macro-economic shocks. The persistent resistance of the French labour movement to major de-regulation of employment protections for permanent workers gave additional impetus to the growth of agency labour at the margins of the regulatory regime where lawfulness is opaque and enforcement minimal. National-level institutions therefore are not solely constrained by their own internal logics. These compete and coalesce with a range of rationales and pressures arising from related, dynamic multi-scalar processes, often emanating outside their immediate realm of jurisdiction and influence.

There are similarities with the histories of TEAs in the liberal market environments of the US and the UK, not least the central role played by Manpower in propelling legislative and market developments through its pursuit of a 'politics of legitimacy' (Forde, 2008: 353). However, in France TEAs were confronted by a rigorously codified standard employment relationship that was safeguarded by an influential labour movement. A key breakthrough was Manpower's 1969 agreement with the CGT, which breached the hitherto unified political opposition to agency employment in France and enabled the codified legalisation of TEA activities. The main legacy of the agreement was the legalisation of the whole sector and its subsequent expansion and legitimisation.

Institutions are dynamic social phenomena, as they are simultaneously reproduced and transformed by the actions of the actors that inhabit them. This has important implications for those concerned with presenting a normative challenge to deregulatory labour market tendencies and their neoliberal ideas, since it weakens any reliance on the hope that more regulatory inclined national capitalisms can provide resilient institutional bulwarks against the recommodification of labour (Peck and Theodore, 2007b). In the case of the French TEA sector, its persistence in facilitating non-standard work practices at the margins of core labour markets and pushing the limits of legal enforcement had an incrementally corrosive effect on the labour market's institutional infrastructure.

The widely acknowledged unlawful use of agency labour in auto-manufacturing for example, was permitted due to a range of interrelated contingent factors: the political exigencies arising from persistently high unemployment; the strengthening neoliberal political consensus on the need for greater labour market flexibility; and weak enforcement of agency labour regulations through systemic under-resourcing of key state agencies, such as the labour inspectorate (Purcell et al., 2014). Added to the mix is the weakness of French unions at the workplace level. Meso-level labour markets are acutely sensitive to the labour resourcing strategies of major employers. As the use of agency labour to fill entry-level jobs became an industry-standard in auto-manufacturing (Viprey, 2002), this created a locked-in relationship with TEAs providing access to a permanent pool of agency workers (Gorgeu and Matthieu, 2009). This in turn erected a major barrier to stable employment, especially for young workers in regions heavily dependent on auto-industry jobs (Purcell et al., 2011).

Since the 1970s national states have succumbed in varying degrees to increasing global market pressures to enhance flexibility for capital by deregulating workers' protection and recommodifying labour (Greer, 2016; Heyes et al., 2014). Although there are common dynamics, features and consequences to the international growth of agency labour, the contours and specificities within each national setting are variegated. Each national labour market, with its own institutions and various actors, is the product of distinctive politico-economic histories, particularly the struggles between capital and labour, such as the impact of the 1968 French general strike on agencies' strategies as they strove to ensure the survival of their industry.

The contemporary labour market in France still formally displays the features of decommodified labour by intervening in such ways as to significantly loosen labour market discipline for most workers (Esping-Andersen, 1990), but this level of protection has been undermined since the 1990s, especially for growing numbers of young workers. The existence of variegated labour markets has, over the years, mitigated against French employers' failure to achieve the kind of far-reaching recommodification of labour seen in the UK since the early 1980s (Greer, 2016). The struggle over the latest attempt to reform labour laws, the *Loi El Khomri*, is testimony to a persistent aspiration for employment security. Over time, the post-1945 regime of institutional protection and rights common for standard workers has been dismantled for agency employees by local politico-economic processes combined with powerful global liberalising tendencies, the outcome of an overarching neoliberal

narrative on the need for more flexible labour markets and greater competitiveness (Peck and Theodore, 2007b). The history of the French TEA sector reveals that macro-institutional arrangements in nation states with strong regulatory traditions do not necessarily provide a long-term domestic bulwark against global deregulatory and recommodification tendencies. This was not an inevitable process in France. A less divided trade union movement, matched by the political will to ensure enforcement of regulations on the ground could have better impeded and limited the advance of agency labour into sectors and occupations that were previously bastions of secure, standard employment. In the absence of this, the 'ecological dominance' of neoliberalism (Jessop, 2014: 254) was able to bypass national institutional channels and undermine post-war employment protections.

Notes

1. DARES time series data on the profile of agency workers: http://dares.travail-emploi.gouv.fr/IMG/xls/donnees_annuelles_sur_l_interim_2015.xls
2. US-based Manpower Group initially expanded into France in 1957 and in 1960 established Manpower France as a franchised subsidiary (Grunelius, 2003).
3. SETT was renamed *Professionnels du Recrutement et de l'Intérim* (PRISME) in 2006.

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